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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIFTH APPELLATE DISTRICT**

In re ALEX B., a Person Coming Under
The Juvenile Court Law.

THE PEOPLE,

Plaintiff and Respondent,

v.

ALEX B.,

Defendant and Appellant.

F048557

(Super. Ct. No. JW095802)

OPINION

THE COURT*

APPEAL from a judgment of the Superior Court of Kern County. H.A. Staley,
Judge.

John R. Hargreaves, under appointment by the Court of Appeal, for Defendant and
Appellant.

Bill Lockyer, Attorney General, Robert R. Anderson, Chief Assistant Attorney
General, Mary Jo Graves, Assistant Attorney General, Julie A. Hokans and Melissa
Lipon, Deputy Attorneys General, for Plaintiff and Respondent.

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* Before Vartabedian, Acting P.J., Harris, J., and Wiseman, J.

In February 2002, the juvenile court adjudged appellant Alex B., a minor, a ward of the court and placed him on probation, following appellant's admission that he committed a misdemeanor violation of Penal Code section 452, subdivision (d) (recklessly setting fire to the property of another). Subsequently, the court placed appellant in foster care. At a permanency planning hearing in July 2005, the court made various findings and orders but failed to make the findings described in Welfare and Institutions Code section 727.2, subdivision (e)(3).¹ Appellant contends, and the People concede, the failure to make these findings was error. We agree, and will remand the matter to the juvenile court.

FACTUAL AND PROCEDURAL BACKGROUND

As indicated above, in February 2002, the juvenile court adjudged appellant a ward of the court pursuant to section 602 and placed him on probation. In November 2003, appellant admitted an allegation that he violated his probation by possessing fireworks on a school campus. In December 2003, at the subsequent disposition hearing, the court continued appellant on probation, vested placement and care of appellant with the probation department and placed appellant in the care of appellant's aunt and uncle, Pamela and Kevin S., on a trial basis.

¹ Welfare and Institutions Code section 727.2, subdivision (e) provides that “[a]t any status review hearing prior to the first permanency planning hearing” for a minor adjudged a ward of the court pursuant to Welfare and Institutions Code section 601 or 602 “the court shall . . . make findings and orders which determine [inter alia] the following: (3) Whether there should be any limitation on the right of the parent or guardian to make educational decisions for the minor. That limitation shall be specifically addressed in the court order and may not exceed what is necessary to protect the minor. If the court specifically limits the right of the parent or guardian to make educational decisions for the minor, the court shall at the same time appoint a responsible adult to make educational decisions for the minor pursuant to Section 726.”

All further statutory references are to the Welfare and Institutions Code.

In July 2004, the probation officer filed a petition to modify appellant's probation by having appellant taken into protective custody. The probation officer, in a memorandum to the court, stated that Pamela and Kevin S., who were licensed foster guardians, were in "imminent danger of losing their license due to failure to report potential sexual abuse." In August 2004, the court ordered appellant removed from the S.' home and placed in juvenile hall pending placement.

In November 2004, the court ordered appellant placed in the home of his maternal aunt, Leah S.

On July 29, 2005, a permanency planning hearing was held. The report of the probation officer (RPO) submitted to the court in connection with that hearing stated that the "whereabouts and circumstances of [appellant's] father are unknown" and "[appellant's] mother is incarcerated in Los Angeles County due to allegations of murder." The RPO also stated that appellant is "extremely bonded to his maternal aunt, Leah S." and that "Ms. S. has continually advocated as to what is in [appellant's] best interest, be it mental health, education or probation." Defense counsel told the court that Ms. S., appellant and appellant's grandmother "feel that the grandmother could be a more stable force" because Ms. S. "has to go to work every day" and her work "may . . . require her to go to Sacramento or other places for training for extended periods of time"

The court ordered that placement and care remain with the probation department pending further order of the court; ordered that appellant "remain in relative foster care on a trial basis"; declared January 29, 2006, as "the likely date by which a permanent plan will be developed"; and set a hearing for that date. The court did not make the findings described in section 727, subdivision (e)(3). The instant appeal followed.

DISCUSSION

At each permanency planning hearing for a minor who has been declared a ward of the juvenile court pursuant to section 601 or 602 and who is in foster care, the juvenile court “shall . . . make findings, as described in subdivision (e) of Section 727.2.” (§ 727.3, subd. (a)(4).) As indicated above, section 727.2, subdivision (e)(3) requires the court to make certain findings and orders relating to the adult who is to make educational decisions for any minor in foster care who, like appellant, has been declared a ward of the court pursuant to section 602. Therefore, at the July 29, 2005, permanency planning hearing, the court was required to make the findings described in section 727, subdivision (e)(3). And as the parties agree, the court erroneously failed to do so. Accordingly, we will remand this matter to the juvenile court for the purpose of making the findings described in section 727.2, subdivision (e)(3).

DISPOSITION

The matter is remanded to the juvenile court for the purpose of making the findings described in section 727.2, subdivision (e)(3). In all other respects, the judgment is affirmed.